



**ENTERED
02/09/2010**

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE)	
)	
CHARLES B. MARINO,)	CASE NO. 09-33545-H3-11
DINOSAUR OIL AND GAS, INC.,)	CASE NO. 09-33649-H3-11
ITALIAN-AMERICAN OIL CO.,)	CASE NO. 09-33650-H3-11
)	
Debtors)	Jointly Administered

CHARLES B. MARINO, et al)	ADVERSARY NO. 09-3307
)	
versus)	
)	
DENA FREDRICKSON, ITALIAN-)	
AMERICAN OIL CO., and)	
DINOSAUR OIL AND GAS, INC.)	
)	

MEMORANDUM OPINION

The court held a hearing on its Order to Show Cause (Docket No. 23) why the above captioned adversary proceeding should not be remanded to the 190th Judicial District Court of Harris County, Texas. The following are the Findings of Fact and Conclusions of Law of the court. A separate Judgment will be entered remanding the case back to state court. To the extent any of the Findings of Fact are considered Conclusions of Law, they are adopted as such. To the extent any of the Conclusions of Law are considered Findings of Fact, they are adopted as such.

Findings of Fact

Charles B. Marino (Marino) filed an individual chapter 11 bankruptcy proceeding on May 22, 2009. Marino was the founder and former sole shareholder of Dinosaur Oil and Gas, Inc. (Dinosaur) and Italian-American Oil Co. (Italian-American), collectively referred to as the "Corporations." Dinosaur and Italian-American filed voluntary petitions under chapter 11 on May 28, 2009. Dinosaur is listed as owning mineral rights and Italian-American is listed as an oil & gas operator. On August 6, 2009, Dinosaur and Italian-American removed to this court a suit for declaratory judgment pending under Cause No. 2008-46476, 190th Judicial District, Harris County, Texas and entitled "Charles B. Marino vs. Dena Frederickson, Italian-American Oil Co. and Dinosaur Oil and Gas, Inc." Upon removal, this cause of action became the above captioned adversary proceeding.

The issues in the instant case are entirely state law issues. The matter involves a dispute between family members over the control, operation and ownership of Dinosaur and Italian-American as well as issues regarding the compliance with, and validity of, a Rule 11 Settlement Agreement entered into between the parties in the Harris County state court. The case was filed on August 1, 2008 and has been pending in the Harris County state court for almost two and one-half years. During that time, the Railroad Commission of Texas and a state court Receiver intervened in the suit in an effort to execute on an

Agreed Final Judgment rendered against Marino in June 2001. In addition, money has been deposited and is currently held in the registry of the Harris County state court in connection with this matter.

Conclusions of Law

Remand is governed by 28 U.S.C. § 1452, which provides in pertinent part: "The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground."


An equitable ground is one that is fair and reasonable. In re Cathedral of the Incarnation in the Diocese of Long Island, 99 F.3d 66 (2d Cir. 1996). A case over which the bankruptcy court has jurisdiction may nevertheless be more appropriately litigated in another forum. Pacor v. Higgins, 743 F.2d 984 (3rd Cir. 1984). Conservation of judicial resources, avoidance of multiplicity of actions, and considerations of comity are all grounds for remand. In re Briarpatch Film Corp., 281 B.R. 820 (Bankr. S.D.N.Y. 2002), citing Midlantic National Bank v. Comtek Elec., Inc. (In re Comtek Elec., Inc.), 23 B.R. 449 (Bankr. S.D.N.Y. 1982). In determining whether to remand, the court also considers whether the state court is better able to respond to a suit involving State law. Id.

The court concludes, based on the totality of the circumstances, that the instant adversary proceeding should be

remanded to the 190th Judicial District Court, Harris County, Texas.

Based on the foregoing, a separate Judgment will be entered remanding the above captioned adversary proceeding to the 190th Judicial District Court, Harris County, Texas.

Signed at Houston, Texas on this 9th day of February, 2010.


LETITIA Z. PAUL
UNITED STATES BANKRUPTCY JUDGE